

**PATENT****Attorney Docket No.: W1200-00042****III. Remarks****A. Amendments**

Dependent Claim 4 has been canceled and its features amended into independent method Claim 1. Dependent Claim 27 has been canceled and its features amended into independent system Claim 24. Claims 5 and 28 have been amended to change their dependency consistent with the amendments to Claims 1 and 24.

Independent Claims 1 and 27 now require that locations of both lottery retailers and at least one existing non-lottery retailer are identified on a map display. By previous amendment, Independent Claims 14 and 33 require that locations of at least one lottery retailer and at least one existing non-lottery retailer are identified on a map display.

As discussed in the previous response, an "existing non-lottery retailer" is an existing, as opposed to a hypothetical, retailer location, meaning the entity is an on-going "retailer" entity (i.e., an operational retailer such as an operating convenience store) that does not yet sell/distribute lottery game(s) (i.e., a "non-lottery" retailer).

No new matter is added by these amendments. It is submitted that the amendments raise no additional issues for search or consideration and place the application in better form for allowance or appeal. Accordingly, entry of these amendments is respectfully requested.

**B. Rejection under 35 USC § 103**

The Action rejects Claims 1-17, 19-35 and 37-40 as being obvious in view of Microsoft's MapPoint as disclosed by two articles: "Divide and Conquer" and "Microsoft MapPoint 2000 Delivers New Mapping and Analysis Program." Reconsideration and withdrawal of this rejection are respectfully requested.

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1. "unique identifiers indicating types of lottery games sold by respective lottery retailers"

With respect to Claim 1, Claim 1 recites the step of "assigning through a processor unique identifiers to said plurality of lottery retailers, **said unique identifiers indicating types of lottery games sold by respective lottery retailers** from said plurality of lottery retailers." These unique identifiers are then displayed on a map display. The lottery retailers are identified *by the kinds of games they sell*. Lottery retailers that sell the same kinds of games are assigned the same unique identifiers. Lottery retailers that sell different kinds of games are assigned different unique identifiers for use in the display. Figure 4 of the present application shows an example of individual unique identifiers being assigned to identify retailers by the type of product sold, e.g., a first identifier for instant ticket sale only, a second identifier for instant ticket and on-line lottery sales, etc.

In the Response to Arguments Section, the Examiner responds as follows to Applicants' arguments that this unique identifier assignment and display features are not taught or suggested by the prior art as follows:

By Applicant's own admission on page 5 of the specification, it is old and well known to use the Microsoft Mappoint software package to map sales figures and demographic data. . . Furthermore, in the Baker article, the business data that is displayed is inherently sales data used to make informed decisions. In addition, the Newswire article also states the users can view sales data geographically to create shaded area, sized circle or pushpin maps. . . A business can import spreadsheets of sale data, which could inherently include sales data for individual items, to be mapped.

These responsive arguments reveal a disconnect between what Applicants and the Examiner believe is claimed in Claim 1.

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Baker, according to the Examiner, discloses mapping of sales figures (i.e., volume, total sales, etc.) and demographic data (e.g., population statistics). Claim 1 requires that retailer locations be displayed on the map using unique identifiers **that represent classes of retailers but does not** recite that sales figures or demographic data are displayed. Simply, the “mapping” described in Baker is not displaying unique identifier for retailers assigned based on the specific subsection of games sold by the respective retailers. Therefore, the unique identifier assignment and use as claimed are not taught by the art of record.

For at least these reasons, it is submitted that Claim 1 is not obvious from and is allowable over the art of record. Claims 2-3, and 5-13 depend from Claim 1 and are also allowable. Claim 24 is directed to a system for processing lottery sales data and recites elements that parallel features of Claim 1. For at least the reasons set forth above in connection with Claim 1, it is also submitted that Claim 24 and Claims 25-27 and 29-32, which depend from Claim 24, are allowable over the art of record.

2. “identifying an indication of a location of at least one existing non-lottery retailer on said map display”

As set forth above, each of independent Claims 1, 14, 24 and 33 now recites that an indication of a location of at least one existing non-lottery retailer is identified on the map display. The Examiner relies on the Avon example from the Baker article for providing this feature.

In response to Applicants’ arguments that this feature was not taught or suggested by the Avon example, the Examiner states that “[a]s for the Avon example in the Baker reference, **inherently** if the user is determining where a kiosk should be set up based on demographics and sales data, the user maps current kiosk locations along with other retail establishments who do not currently have an Avon kiosk.” (emphasis added) Applicants respectfully disagree.

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In arguing inherency in either an anticipation or obviousness rejection, the allegedly inherent characteristic (i) must necessarily flow from the teachings of the applied prior art and (ii) must be so recognized by persons of ordinary skill in the art. (MPEP 2112; 2112IV). As discussed below, Applicants submit that the Examiner has not shown that the Avon reference necessarily would require the user to map "other retail establishments who do not currently have an Avon kiosk," nor that one of ordinary skill in the art would understand the use by Avon as such.

Avon's use of mapping software in Baker is described as follows:

For example, New York-based Avon uses GIS to track sales representatives' records and sales penetration by country, state, county, city, and even by a specific street. The software produces multicolored maps and grids that show not only where sales are already concentrated, but also where Avon needs to beef up recruiting efforts for new representatives. With this data, Avon can target the best places to set up retail express centers and kiosks – initiatives that are part of Avon's new marketing program for the future.

Baker, Page 3.

Identifying sales concentrations as discussed in Baker may necessarily identify areas where sales are lacking by showing where sales are actually made, but it does not necessarily (i.e., in such a manner as could not be otherwise) identify to the user on the map display where there is an existing non-Avon retailer that can become an Avon retailer. Avon simply may use the map display with Avon sales data to identify the sales holes and then engage someone to do a field search to identify possible candidates for Avon kiosks or retail express centers without mapping non-Avon retailer locations. In another possible alternative, Avon may hold a franchise or other type of fair to recruit possible locations for Avon kiosk holders or sales centers. Simply,

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there are a number of different viable and utterly possible ways Avon may target the best places to set up retail express centers and kiosks.

Turning to the actual language of the description of Baker, the Baker reference simply states that the “software produces multicolored maps and grids that show not only where sales are already concentrated, but also where Avon needs to beef up recruiting efforts for new representatives.” The description follows that “[w]ith this data, Avon can target the best places to set up retail express centers and kiosks.” It does not teach expressly or inherently, or suggest, that the software produces a map that shows non-Avon retailer locations. The only fair reading is that the map shows “where Avon needs to beef up recruiting efforts for new representatives.” In short, from “show not only where sales are already concentrated, but also where Avon needs to beef up recruiting efforts for new representatives” one of ordinary skill would recognize that the Avon software usage displays sales holes, but one of ordinary skill would not understand the use to necessarily identify on a display where there is an existing non-Avon retailer.

Therefore, the art of record does not teach or suggest the step of “identifying on said map display an indication of a location of at least one existing non-lottery retailer” or “identifying an indication of a location of at least one existing non-lottery retailer from said plurality of existing non-lottery retailers on said map display” as claimed.

Because the art of record, therefore, does not teach each feature of Applicants’ claimed methods and system, it is submitted that independent Claims 1, 14, 24 and 33, and their dependent claims, are not obvious over the cited reference. Reconsideration and withdrawal of the rejection of these claims are respectfully requested.

**PATENT****Attorney Docket No.: W1200-00042****IV. Conclusion**

In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1679.

Respectfully submitted,

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